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UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1996

Addendum

GEORGIA

[7 April 1997]

GE.97-16774 (E)

Introduction

Land and people

1. Georgia lies between the Black and Caspian Seas, to the south of the Caucasian mountains. It is the most western country in the Transcaucasian region and is bounded by Turkey and Armenia on the south, by the Russian Federation on the north and by Azerbaijan on the east. The country is one of the smallest of the former Soviet republics, covering 69,700 km^2. The republic includes two autonomous republics - Abkhazia and Adjaria.

2. Georgia was established and developed as an independent country. In 1801 it was annexed by the Russian State. Later, after the defeat of Russia in the First World War and the Revolution of 1917, Georgia managed to gain independence for a very short time. Having already conquered the other Transcaucasian republics (Armenia, Azerbaijan), the Red Army occupied Georgia in February 1921. Georgia entered the USSR as a part of the Transcaucasian Republic.

3. The population of the country stood at 5,329,000 in January 1995. Of these 47.5 per cent (2,579,000 persons) are males and 52.5 per cent (2,790,000 persons) are females, of whom 1,325,494 are of child-bearing age; the fertility rate is 2.2. According to 1992 data, children under the age of 4 years constitute 8 per cent and children 5-18 years 22.4 per cent of the total population. The urban population comprises 3,026,000 and the rural 2,343,000 persons. The population density as of January 1995 was 78.6 persons per km^2.

4. Georgia is a multinational State. About 80 different nationalities inhabit the country. According to the results of the population census in 1989, Georgians are 70 per cent and others 29.9 per cent of the total population.

5. Rather complicated socio-economic conditions have been established in the country during the last several years. Military conflict had a negative impact on the birth rate: it was 18.5 in 1985 and 10.7 in 1994. As for the death rate, it was 8.7 and 9.4 respectively. The infant mortality rate was 23.9 per 1,000 newborn child in 1985 and 10.8 in 1995.

Independence

6. On 31 March 1991, a referendum was held in which Georgians unanimously supported separation from the USSR, and the independence of Georgia was consequently declared. The dissolution of the USSR was followed by the destruction of the economic ties between the republics and with the countries of Central Europe. The internal and external trade systems as well as the level of industry declined.

7. As a result of the loss of internal stability and partly of the breakdown of political and administrative control, industrial goods production declined 80 per cent and agricultural goods, more than 60 per cent. Trade between the former Soviet republics, as well as with the countries of the Economic Mutual Aid Council, almost stopped after independence. The level of

industry considerably decreased and the high level of inflation destroyed the greater part of the money savings which were accumulated in rubles during the pre-independence period. The real income of the population, and consequently its solvency, significantly dwindled.

8. GDP declined from US$ 11,264 (1990) to US$ 2,294 (1994) and per capita GDP declined from US$ 2,120 (1990) to US$ 363 (1994).

Ethnic conflicts

9. The ethnic minorities living in the country considered the growing nationalism as a great danger to them. Abkhazian and Ossetian separatists hoped to receive support from Russia which would help them to restore the USSR. In 1990 the Ossetians published a unilateral declaration of independence which declared South Ossetia as an independent Soviet republic. They asked Russia to receive the republic in the Soviet Union. As a response to that act, the Georgian parliament abolished the autonomy of this region (South Ossetian Autonomous District). Approximately 100,000 Ossetians left for North Ossetia (Russia). Many people of Georgian nationality left the region of Tskhinvali in order to go to other safer regions of Georgia.

10. Ethnic conflicts in the region of Tskhinvali, and later in Abkhazia, caused approximately 400,000 people to leave their homes. Most of the people who have already left Georgia are not registered. Between 260,000 and 280,000 refugees were registered in Georgia by 1995, including 31,583 children below the age of 6 years and 1,997 children between 6 and 16 years.

I. DEFINITION OF THE CHILD

11. A person under the age of 18 years is considered as a child by the Georgian statutes. The Civil Code of Georgia defines a person below the age of 15 years to be a minor, while a person from 15 to 18 is regarded as an adolescent.

12. Persons below the age of 18 are ineligible to vote and do not enjoy the competence to carry out legal actions on their own. According to the Civil Code of Georgia legal actions on behalf of persons under the age of 15 years are carried out by their legal representatives - their parents or guardians; persons between 15 and 18 carry out legal actions only with the consent of their parents or guardians but can also carry out minor transactions involving their current needs within the limits of the sum of money they have as an allowance or salary. They are also allowed to have a bank account. The Civil Code provides stronger protection for the interests of the child in the disposal of his/her property. In carrying out transactions involving the properties of a child, his/her legal representatives are obliged to prove to the court the need or obvious advantage to the child of the transaction. At the same time, the Civil Code abolishes and nullifies those transactions which are carried out by a child and result in dissipation of his/her property (act 51 30).

13. The minimum age at which a child is allowed to sign a labour contract independently and without the permission of his/her parents is 16. In general, 16 years of age is the absolute minimum for hiring children and it is

forbidden to hire children below that age. However, exceptions may be made in some cases: (a) to hire children aged between 15 and 16 years but only for easy jobs that are not dangerous to the health and development of the children; (b) to hire children under the age of 15 years in the field of the arts (circus, cinema) under certain special conditions. It is prohibited to hire a person under 16. In exceptional cases the administration of an enterprise, with the agreement of the local trade union committee, can hire a person of 15 years of age. However, in all cases the acceptability of such action must be decided, taking into account the interests of the child.

14. Education is mandatory up to the age of 16. School starts at the age of 6 or 7 according to the decision of the child's parents or guardians.

15. Article 12 of the Penal Code states that only children over 14 can be held legally responsible and only inasmuch as they understand the nature and gravity of their offence and insofar as they are able to govern their own actions. The Penal Code contains special provisions for legally responsible adolescents, and provides for special correctional measures.

16. Imprisonment of a child is permitted in exceptional cases: by preliminary detention in urgent circumstances and only in the cases expressly provided for by law. In such cases court authorities must rule within 24 hours on the legality of the detention. Detention can only be admissible in special circumstances during the initial investigation. Another form of restraint is serving a prison sentence passed by a court of law. In all cases, however, the child must be over 14.

17. Forcing a person to take drugs is punishable. The penalties are more severe if the person involved is under 18 years of age. Article 236 of the Georgian Criminal Code provides for imprisonment up to the years for involving adolescents in criminal activity, in inebriety, in begging or prostitution.

18. After reaching 18 years of age all Georgian men are subject to military service. The law does not provide for the possibility of accepting volunteers in the army at a lower age.

19. The minimum age at which it is possible to obtain a driving licence for a car is 18, and 16 for motorcycles.

II. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

20. The requirements contained in this text are accepted in Georgian legislation. The Georgian Constitution of 24 August 1995 proclaims that the State guarantees the life, dignity and rights of the individuals and creates conditions for the free development of man and of civil society. The Constitution in particular emphasizes that all people regardless of their race, skin colour, language, sex, religion, political and other views, national, ethnic and social belonging, origin, property and rank status, place of living, are born free and equal to the law. Foreign nationals residing in Georgia have the same rights and obligations under the Constitution, with the exception of those for which Georgian citizenship is required (art. 6).

21. The principle of equality of the Georgian citizens is emphasized in the Code of Criminal Procedure. Activities like racial and ethnic discrimination (art. 75) and genocide (art. 651) are considered as crimes by the Penal Code of Georgia.

22. Despite the current regulation of the principle of non-discrimination at the level of the Constitution and law, the facts of discrimination against children still exists, particularly at the level of the home. It is proper to expose those facts. The growing social division of society and commercialization of the spheres of education, health care, culture and recreation reduce access to them for whole groups of children. This process has a stronger influence on families that fall upon severe circumstances due to the several problems: unemployment, large families, absence of one of the spouses, chronic and severe diseases.

B. Best interests of the child (art. 3)

23. The main ideas in Georgian legislation with respect to children are: responsibility for looking after the children and their education lies with the parents; the State and society assist the parents in that activity; article 64 of the Marital and Family Law of Georgia provides for confiscation of the parental right to parents, or to one of them, if they avoid care of their children, or they use maliciously parental rights - they treat cruelly their children, have injurious influence on them with their immoral, anti-social behaviour. That punishment is also provided by the law in the cases if parents are alcoholics or drug addicts.

24. The basic constitutional principle of State policy is protection of the child's and mother's right (art. 36). In the legislation concerning children reference to a child's interests is made when particularly important rights and interests of the child are at issue. While deciding the question about an adoption of a child, the court must take into account the opinion of the child if he/she is over 10 years.

25. The parents' representation of a minor and their guardianship of an adolescent may only be guided by the interests of the child. Disposal of a child's property is only permitted by the court when there is an obvious advantage for the child. It is from the point of view of the child's interests that it is decided which parent is to be granted custody after a divorce and which of the parents is to be awarded the family home. In appointing a guardian of the child determination is made from the point of view of the protection of the interests of the child.

26. The content of parental rights and obligations includes care for the personality, health, education and property of the child. The Family Code contains provisions providing for such rights to be exercised by the parents jointly or individually irrespective of whether they are joined in wedlock or not. The mother and the father are equal in exercising their parental rights. For failure to exercise parental rights and obligations there are penalties under criminal or family law, the latter being expressed in limiting or revoking parental rights.

C. The right to life, survival and development (art. 6)

27. The right to life of all Georgian citizens, including children, is proclaimed by the Constitution. Article 15 of the Constitution states that the right to life is inviolable and this right is protected by the law. The ultimate punishment - the death penalty, until its complete abolition - can be provided for murder or other capital offences. Only the Supreme Court is allowed to pronounce such a grave judgement, and it cannot be fixed as a punishment for persons under the age of 18 years. In general, only a person over 14 years can be sentenced to imprisonment, and this action must be considered as an exceptional measure. While judging a person who was below the age of 18 years at the time of committing the crime, the court cannot sentence him/her to imprisonment for more than 10 years (art. 25 of the Penal Code). Children serve their sentence in reformatories, apart from adult prisoners.

28. Special measures are taken regarding the discharge of children. During the trial, according to the choice of the prosecutor or judge, it is possible to apply corrective rather than punitive measures and to reverse an already pronounced sentence taking into account certain circumstances. The penalty is also lightened with respect to the type and duration of imprisonment when the matter concerns under-age persons (Penal Code, art. 25, sect. 12).

29. There is no age limit for giving evidence, i.e. a child can be subpoenaed as a witness. The Code of Penal Procedure provides for special rules to interrogate under-age witnesses - a child must be questioned in the presence of a psychologist and an expert from the educational field, and if necessary in the presence of a parent or a guardian (art. 157, Code of Penal Procedure).

30. According to article 32 of the Civil Procedure Code, the rights and interests of adolescents between 14 and 18 are protected by the children's parents and guardians in court, but simultaneously, the court is obliged to involve adolescents in such activities. As for minors under the age of 15 years and people who are considered as disabled people because of mental illness or weak-mindedness, their rights and interests in court are protected by parents or guardians.

31. The law respects the right of the child to be heard by the court while discussing his/her rights and interests. A child of 10 or more years of age is called to be heard in court in adoption proceedings, and in settling the issue of domicile in case of a dispute between his/her parents and, if necessary, about his/her custody after the divorce of his/her parents (art. 107 of the Marital and Family Code). According to article 57 of the Marital and Family Code, to adopt or change the name of a child over 10 years, his/her consent is necessary.

32. Article 1079 of the Georgian Civil Code states that a person has the right to marry at 18 years. As an exception, the court can allow a person of 16 years to marry if there are important reasons for it. After his/her marriage a person has the right to carry out legal actions independently.

D. Respect for the views of the child (art. 12)

33. The Constitution recognizes the right of Georgian citizens, including children, to free expression and dissemination of their opinions (art. 19). Legislation provides a clearer description of the cases when special importance is attached to the opinion of a child, depending on his/her age and degree of maturity. Age and the related capability of the child to form and express his/her views are important in determining the legal effect of the opinion of the child.

34. The Marital and Family Code envisages that in certain cases the child must be heard by the court before it reaches a ruling concerning that child. A child of 10 or more years of age is called to be heard in court in settling the issue of domicile when the child has run away from a parent's home. In settling disputes among parents regarding custody, the court must take into consideration the views of a 10-year-old child. A child who has completed 14 years of age cannot be adopted without his/her consent (Marital and Family Code, art. 107).

III. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

35. On the basis of the parents' agreement, a child is given the name of the father. If a child's mother is not married or there is no parents' joint statement or court decision about the determination of the father, the child will receive the name of the person who is registered as the father. If there is no agreement between the parents about the child's name, the decision will be taken by the guardian and the courts (art. 55, Marital and Family Code).

36. According to the Constitution (art. 12) and law on citizenship, Georgian citizenship is acquired at birth when at least one of the parents is a Georgian citizen and the child is born on Georgian territory, or by naturalization. If both parents change their citizenship their children's citizenship will change automatically if they are under the age of 14 years with their consent if older.

37. The right of the child to know his/her parents and to be looked after by them is protected by the provisions of the Marital and Family Code. Essentially, these provisions are aimed at protecting the child's best interests. The child's origin in respect to the mother is established by the birth certificate. The woman who has given birth to a child is recognized as the mother even though the conception might have occurred using someone else's genetic material. The spouse of the mother is recognized as the father when the child is born in marriage or less than 10 months after the termination of the marriage. Origin may also be established in court or by voluntary admission of parenthood.

B. Preservation of identity (art. 8)

38. Under the Constitution of Georgia a Georgian citizen by birth can be deprived of Georgian citizenship in cases that are provided for by the legislation (art. 12, sect. 3). According to the law on citizenship, these

include committing a serious crime against Georgia and violating its State interests and security, and then only if the person resides abroad.

C. Freedom of expression (art. 13)

39. The Georgian Constitution recognizes everyone's right to express an opinion and to disseminate that opinion orally or in writing, by sound, image or in another manner (art. 19, sect. 1).

40. The Constitution also provides for limitations of the freedom of expression: this right may not be used to violate the rights of a person or to defame him, or to call for violent change in the constitutionally established social order (art. 19, sect. 3).

41. Article 23 of the Constitution states that the freedom of intellectual work is ensured. The right of intellectual property is inviolable. Interference in creative work and censorship in spheres of creative activity is not allowed. It is also not allowed to prohibit a creative work and to impose a ban on its dissemination if it does not violate the legal rights of another person. According to article 24 of the Constitution every person has the right to receive and disseminate freely information, to express and disseminate his/her opinion orally, in writing, or in another manner. The mass media are free and censorship is not allowed. Freedom of expression and information is guaranteed by the conditions of press and electronic facilities. All Georgian political parties and social organizations can have their own periodicals which reflect their respective policies and attitudes to the problems of politics and the State. There are several score of private radio stations and television channels in the country. Journalists are free to express and defend their position, but they may be held liable for violating any of the limitations on the freedom of expression explained above.

42. Access to foreign newspapers and magazines is free. There are no restrictions on the importation and sale of such publications in Georgia and, likewise, there are no restrictions to the export and sale of Georgian newspapers abroad.

D. Access to appropriate information (art. 17)

43. Under the Constitution the State promotes the development of culture, citizens' unrestricted participation in cultural life, enrichment and display of cultural manifestations, recognition of national and universal cultural values, and deepening of international cultural relations (art. 34). Television is the main information medium for modern Georgian children. Georgian national television broadcasts on two channels. Private television companies started broadcasting in 1992.

44. Satellite television and video are strong competitors of the information media and children's programmes and publications. The choice between artistic values and pseudocultural entertainment often leans toward the latter.

45. Public libraries are another basic and accessible source of information for children. Practically all schools and cultural centres have their own libraries.

46. In recent years, a true turnaround has occurred in the means of mass communications: information diversity, a thriving newspaper industry, growing competition. Most of the old newspapers and magazines ceased to exist and were replaced by numerous new ones. From a situation of hunger for information society went through a transition to information oversaturation and aggression. There is a similar situation with respect to children's and young people's newspapers and magazines. Children's and adolescents' attention is turned to entertainment, fantasy, parapsychology, intersexual relations and sex, erotica and violence.

47. Erotic, pornographic, violent and horror films turned out to be accessible to children as a result of the explosion in magazine and book publishing. Unfortunately, there is no clearly defined State policy in this field. There is also an acute problem of children's textbook, and especially school textbook, publishing.

E. Freedom of thought, conscience and religion (art. 14)

48. Under the Constitution freedom of thought, conscience and religion is guaranteed. Persecution of a person for ideas, views or religion, as well as constraining a person from expressing his/her opinion about the foregoing, are prohibited (art. 19). The violation of religious freedom, the use of force or intimidation, obstructing people's freedom to perform freely their religious rites are crimes punishable by the law (Criminal Code, art. 149).

49. Georgians are tolerant of other religious views and of the performance of other religious rites. There are no obstructions from the legal or practical point of view to parents' freedom to provide religious and moral education to their children depending on their own convictions. These are personal and family problems in which no one has the right to interfere.

50. The freedom of conscience and religion cannot be directed against national security, public order, national health and morals, or against the rights and freedoms of other citizens (art. 19, sect. 3). Society is greatly concerned over the growing spread of so-called sects or new religious movements, some of which are violating the basic rights of their followers. Most of those sects display intolerance and require on the part of their followers intolerance of traditional religions and behaviour that is critical of society and its legal order. Children are uncritical in accepting the new religious ideas presented to them in an attractive manner, and in most cases pay the price in terms of losing traditional values such as the family, parents, home, school, friends, and often their own life.

F. Freedom of association and of peaceful assembly (art. 15)

51. Georgian citizens, including children, enjoy freedom of association. The aim of association is the protection and satisfaction of citizens' interests. The most widespread forms of association are labour unions and political parties (Constitution, art. 26, sect. 1). The law establishes which organizations are subject to registration. Mandatory registration does not amount to control over the freedom of association, but rather verification that the legal requirements are being observed.

52. The Constitution provides for certain general restrictions on the right of association. A ban has been imposed on organizations aiming at overthrowing or changing by force the existing constitutional order in Georgia, or whose activity is directed against the sovereignty and territorial integrity of the country and the unity of the nation, and at kindling national, ethnic, provincial and religious hostility (art. 26, sect. 3).

53. A general restriction on children's right to association is also in force: children cannot establish or join political parties.

54. The Constitution also recognizes the right of free assembly, which means the right of citizens to assemble freely and without arms at assemblies and rallies. The procedure for organizing and holding rallies is established by a special act, while indoor rallies may be held without permission. The law might require giving proper notice to the authorities in case a manifestation or meeting is being held where there is heavy traffic (art. 25, sect. 2).

55. The authorities have the right to stop a demonstration only if it has an illegal character.

G. Protection of privacy (art. 16)

56. The Constitution states that every person's private life, private business place, private records, private correspondence, conversations by phone or other technical means, and announcements received by technical means are inviolable. Restriction of those rights is allowed only by a court decision or, in cases that are provided for by the law, without it (art. 20, sect. 1).

57. Under the Constitution imprisonment or other restriction of personal freedom without a court decision is prohibited. A person can be subjected to detention and search only by specially authorized persons and only in cases provided for by the law. No one can be subjected to medical, scientific or other experiments without his/her voluntary consent in writing (art. 18).

58. The inviolability of the home is also guaranteed by the Constitution. No one can enter and stay in another person's home against his/her will. It is also prohibited to search a home without a court decision or without urgent necessity, provided for by the law (art. 20, sect. 2).

59. All forms of illegal interference in people's privacy have been defined as crimes and are punishable under the Penal Code. Violations of the rights of the child within the family are also crimes, particularly the ill-meaning disclosure of the confidentiality of adoption, which is punishable by imprisonment from one to three years (art. 25 of the Criminal Code). Violations of the inviolability of the home, the confidentiality of correspondence, as well as illegal attacks on the honour and dignity of the individual in the form of defamation or slander, are punishable by the law (Penal Code, arts. 137, 138, 141).

60. The current Penal Code (in force since 1961) displays certain gaps and incompatibilities with the new Constitution (1995) of the State. Those incompatibilities will certainly be corrected in the new Penal Code, a draft

of which is already done and given to the parliament by a governmental commission. Apart from the protection provided by criminal law, citizens may also protect the values described above through civil law by filing claims for compensation for material and moral damage.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

61. This provision is reproduced in almost the same manner in the Georgian Constitution: "no one may be subjected to torture, cruel, inhuman or degrading treatment" (art. 17), which provides protection to all citizens including children. Article 195 of the Penal Code provides for punishment by imprisonment from 3 to 10 years for any authority who in the course of his duties resorts to illegal forcible means for the purpose of obtaining confession, testimony or conclusion from a defendant. Illegal detention and the placement of a healthy individual in a mental institution is also a crime (art. 194 of the Criminal Code).

62. Under the Constitution capital punishment may be fixed as a punishment for a particularly severe crime against somebody's life. Such a grave punishment may be fixed only by the Supreme Court (art. 15).

63. Lately, the problem of the abolition of the death penalty has caused acute debates in Georgia. There is an opinion that the death penalty should be replaced by life imprisonment. The issue will be finally resolved after the adoption of the new Penal Code.

64. Georgian legislation does not provide for corporal punishment. Bodily injury (including light injury) is a punishable crime. There is a special text in the Penal Code that states that punishment cannot have as its object the causing of physical suffering or degrading human dignity (art. 22 of the Criminal Code, sect. 2). Corporal punishment is banned in schools and has been revoked as an educational measure.

65. The Penal Code provides special rules in respect of the imposition and serving of prison sentence by children in penal-labour colonies. There is a provision for reducing sentences in terms of type and term. The death penalty cannot be imposed on a person who was under 18 at the time of perpetrating the crime or on a woman who was pregnant at the time of the crime or of the reading of the verdict. A woman cannot be executed if she is pregnant at the time of execution (art. 24 of the Penal Code).

66. Three types of penalties can be imposed on adolescents: imprisonment, reformatory measures, and special medical institutions.

IV. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

67. This text of the Constitution proclaims two basic principles: (1) a child exercises his/her own rights according to his/her ability development; and (2) parents and other persons who by law look after the child have the right, responsibility and obligation to provide adequate guidance to the child

in such cases where this does not come into conflict with the child's own competence. Thus, Georgian legislation entrusts parents to be the legal representatives of their minor children. Parents are also obliged to bring up their children to care for their physical development and education, to train them for work of social utility, and to protect their rights and interests (art. 143 of the Marital and Family Code).

68. Custody and care are adopted for those under-age children who, for various reasons (death of parents, confiscation of parental rights, illness of parents, etc.) lack of parental care. Custody and care are adopted to protect the personal and property rights and the interests of children (art. 128 of the Marital and Family Code).

69. The law recognizes the competence of adolescents to conduct legal actions "with the consent of their parents". Minors are not permitted to carry out actions of legal consequence. The Marital and Family Code states that "a guardian is a legal representative of a person under guardianship and has to make arrangements on his/her behalf and in accordance with his/her interests. An under-age person between 15 and 18 years concludes a bargain, which he/she cannot conclude independently, with the consent of his/her guardian" (art. 148). Under-age persons can, however, act on their own without the consent of the parents in "carrying out ordinary minor deals for satisfying their current needs and in disposing of anything they have acquired through their own labour or study" (salary, stipend).

70. Parental guidance of children is specifically regulated in the judicial process (an article of the Code of Civil Procedure), in education, in labour relations and in education.

71. Several possibilities are provided for acquainting parents with the educational process of the child in the school for the purpose of attaining "adequate guidance of the child" in the exercising of his/her right to education. These possibilities are: regular meetings and consultations provided by teachers to parents about the progress and behaviour of the children; participation of representatives of the parents on the school councils. In practice, however, greater efforts are needed on the part of schools for further involving parents in daily school life for the purpose of implementing more efficiently the parents' obligation and right to provide guidance and control of their children in their education.

72. Parental consent is required for children taking jobs if they are under 15; parents, though, are not entitled to any proceeds from their children's earnings. Children over 16 may conclude a labour contract on their own. Under the standards of the Civil Code children are not allowed to make a last will.

B. Parental responsibility (art. 18)

73. Georgian legislation on the family and the child is based on the following premises: the child must be looked after and educated in the family of his/her parents; the State and society should assist parents in their care

of the children; parents enjoy certain legal guarantees that their rights and responsibilities in looking after and educating their children will be observed.

74. The Georgian Constitution and Marital and Family Code state that care for and education of children is the right and obligation of their parents. The mother and father enjoy equal rights and obligations toward their children. Parents are obliged to bring up their children and care for their education and physical development. Parents are the legal representatives of their under-age children and represent them without any proxy while defending their interests in every institution, including court (art. 58).

75. Every parent has full rights and obligations on the basis of his/her capacity as parent. Both parents are principals when they are known, alive, and have not been deprived of parental rights. Whenever one of the parents is dead, unknown or deprived of parental rights, the right of principal is enjoyed by the other parent.

76. Parents have equal rights and obligations toward their children even in the case of divorce. The parent who is not given custody of the child is not deprived of parental rights, nor is he/she relieved of parental responsibilities (Marital and Family Code, art. 59).

77. Parents are free to exercise their rights in looking after and educating their children. These rights include naming, and the care and education of the child. Parental rights and responsibilities are exercised under the Marital and Family Code jointly or separately by the parents. The principle of complete equality between the mother and father in looking after a child is in force. Likewise in force is the joint solving of problems. In case of differences between parents, the decision will be taken by the court with the participation of the parents (Marital and Family Code, art. 59). The rights of parents are protected by the standards of the Marital and Family Code and the Penal Code.

78. Children must live with their parents unless important reasons require that they live elsewhere. In cases where parents live separately the decision where their under-age children have to live depends on the parents' agreement. In case of differences, the dispute is to be settled in court in accordance with the children's interests (Marital and Family Code, art. 60).

79. A parent who does not live together with his/her children has the right to associate with them and is obliged to participate in their upbringing (Marital and Family Code, art. 61).

80. A parent may ask the court to rule for a return of the children to him/her if he/she has left the family home. Actions such as abducting a child or hiding one from his/her parents is a crime under article 135 of the Penal Code. The constitutional principle is that the rights of parents may be revoked only under a procedure established by law. According to article 64 of the Georgian Marital and Family Code, confiscation of parental rights is possible only by the court. Parental rights may be revoked from both parents, or from one of them, if they avoid caring for their children or use parental rights maliciously - they treat their children cruelly or have an injurious

influence on them owing to their immoral, antisocial behaviour. That punishment is also provided by the law if the parents are alcoholics or drug addicts. Revocation of parental rights does not relieve parents of the duty to support their children financially.

81. Parents have a prime responsibility to look after the development of their children. When both parents are deceased, unknown or deprived of parental rights, a legal guardian exercises care over the children similar to that of parents. Under the law adopters are also principals of parental rights.

82. The State policy in respect of support for parents in their care for their children is in need of improvement. Irrespective of the fact that women are granted freedom to choose whether they should dedicate themselves exclusively to looking after their children during the first three years after childbirth, most of them elect not to avail themselves of that right, mainly for economic reasons. The birth of every child results in a lowering of the living standard.

C. Separation from parents (art. 9)

83. It is a principle in Georgian legislation that parents are responsible for looking after and educating their children. Children live with their parents and, in case of unreasonable separation, the court rules for their return to the family home. At the same time, however, Georgian legislation provides various possibilities for children to be separated from their parents at the latter' request, and the placement of such children in institutions.

84. A child's separation from the family is generally accepted as an exceptional measure for protecting the interests of the child in three cases: (a) when parents happen to fall into a difficult situation and request separation from the child; (b) when the child's personality, health and development are threatened by a parent. Separation in such cases is carried out by a court ruling. A court may also issue a ruling on placing the child with one of the parents when they are divorced or separated and cannot agree on which of them should have custody; (c) a child may be separated from the parents and placed in an institution when by his/her behaviour the child threatens his/her own health and future development, and the rights or interests of others, or of society in general.

85. When the parents (mother) of a child under the age of three years are in prison, in hospital, are students, live in inadequate conditions, are unable to look after the child in their own home or are in a state that threatens the health of the child, they can leave the child at a child-care institution. The child may be placed at a Mother and Child Home also on medical grounds (for deficiencies, hereditary damage or after premature birth). In such cases the child is placed in such an institution at the request of the parents and with the agreement of the institution's chief physician. Children receive care at such institutions until the age of three.

86. Children without parents or with parents deprived of parental rights are placed in boarding schools for children and adolescents. State boarding

schools are used to place children who do not enjoy appropriate living conditions with their families or who are left without parental supervision and care.

87. Those boarding schools may also be used for children who regularly cut classes, are homeless, have escaped from their homes, have committed minor theft, are the children of alcoholics or of parents unable to tackle life's problems. Children placed in such schools can visit their homes during holidays. The State covers all costs for food and clothing of such children. Their education is under the supervision of the Ministry of Education.

88. A child's separation from his/her parents is admissible under the Marital and Family Code as a measure for the protection of the child's rights, when the parent's behaviour threatens the personality, health or education of the child. In this case, at the request of the other parent or the prosecutor, as well as ex officio, the court may start procedures for revoking a parent's rights. The court must hear the opinion of the parent affected, but such a hearing is not mandatory when determining the measures for placing a child. In protecting the interests of the child the court may rule on placing the child with close relatives or at a public institution for looking after children (Marital and Family Code, art. 65).

89. When a parent who is deprived of parental rights is regularly disorderly, making it impossible to live together with his/her child, and does not obey warnings and other measures, he/she may be evicted from the family home without receiving another living unit (Civil Code, art. 326).

90. The issue of a child who has escaped from his/her family is also to be settled in court. The court may reject a motion for the return of the child if there are "important reasons" for the child to reside elsewhere. A reason for such a ruling may be the behaviour of one or both parents which makes joint habitation with the children undesirable or threatening for their proper physical and psychological development and for their education. When there is deliberate failure to fulfil parental obligations, the consent of the child is not required for the separation. If it is objectively impossible for the parent to look after a child due to long illness or absence and if it comes to a court settling the case, the consent of the parent must be taken into consideration when deciding on the placement of the child.

91. When a child has committed a violation of the law, one of the possible measures in respect of such a child may be separation from the parents and placement at a Labour Educational School (correctional boarding school). Children are directed to such schools by commissions for under-age children's affairs. In case of committing a crime an under-age person is to be directed to a penal-labour colony by a decision of the court.

92. In all cases when the issue of separating a child from his/her parents is discussed or decided, the provisions of the Code of Civil Procedure, the Code of Criminal Procedure and the Under-Age Persons' Affairs Commissions Act compel the court or commission to call and hear all parties concerned.

93. Georgian legislation provides guarantees for the maintenance of personal links and contacts between parents and the child when the latter is separated from them or lives with one of the parents.

94. Failure to carry out a court ruling to pay maintenance is a crime, as is failure to support under-age and disabled children. It is punishable by imprisonment up to one year or by detention in a reformatory for up to one year.

D. Children deprived of a family environment (art. 20)

95. Institutional care is the main alternative for looking after children who are temporarily or permanently deprived of their family environment. There are various kinds of institutions for children depending on their age and needs for special care or medical treatment.

96. Mother and Child Homes have been established for children under three years of age. They are for children without parents, or children at high medical or social risk (children of single parents, of students, of poor families, of parents working on shifts). These institutions are supervised by the Ministry of Health Care. Children are directed to these institutions by the chief physician of the maternity hospital, local health services, the police, the court or local social welfare offices, as well as at the request of parents. Parental consent is required when the child's parents are known.

97. Boarding schools are provided for children of school age. Children whose families are unable to provide adequate conditions for proper care and education, whose parents are ill or poor, or who are deprived of parental care and supervision may be placed in boarding schools. Children are admitted to such institutions at the request of parents or guardians, or at the request of the child himself. In all cases the consent of the parents is required if they are known.

98. State boarding schools are used for placing children who do not enjoy appropriate living conditions in their families, who are deprived of parental care and supervision, as well as children who regularly cut classes, who are homeless, have escaped from their homes, are the children of alcoholics or of parents who are unable to cope with life's problems.

99. Boarding schools are financed by the State and are run and supervised by the Ministry of Education. Most of them are situated in small towns. Most of the staff are teachers, but medical staff is in short supply.

100. Special schools have also been established for children with chronic illnesses and mental, psychological and physical deficiencies, but these are incapable of accepting all children who need special medical care. Some of them are boarding schools where children stay and receive education as well as medical care. These schools are jointly supervised and guided by the Ministries of Health Care, Education and Labour, and Social Maintenance.

101. There are also special schools for children with chronic disorders and with mental, psychological and physical ailments. But the problem is that those schools cannot take all the children who are in need of medical

treatment. Some of them are boarding schools where children receive both education and medical treatment. These schools are under the joint supervision of the Ministries of Education and Social Maintenance.

102. When taking a decision about the separation of a child from his/her parents, the court must establish "measures of maintenance of relations between children and their parents" (Marital and Family Code, art. 67). To neglect or to oppose the decision of the court is a crime. In the case of revocation or restriction of parental rights in the best interests of a child, it is possible to prohibit totally or partially contact between a parent and a child.

103. Under article 13 of the Constitution all Georgian citizens as well as all foreigners living in Georgia can freely leave the country. However, this right might be restricted in order to protect the national interrelationships, public health, and other rights and freedoms of citizens. Reasons for refusal to issue a passport might be the following: (a) if a criminal case is pending against a person; (b) if a person has been sentenced to imprisonment; (c) if by travelling a person can expose the security of the State to a danger; (d) if a person has an important debt to the State. The unrestricted return of Georgian citizens to the country is regulated under the Constitution.

E. Recovery of maintenance for the child (art. 27, para. 4)

104. Under Georgian legislation children are supported by the parents. Parents are obliged to maintain their under-age as well as disabled adult children who are in need of assistance. In case of separation or divorce a court determines the support of a child and thereby clarifies the status of a parent. An amount of maintenance is determined in accordance with the child's needs and the parent's earnings. According to article 72 of the Marital and Family Code a parent pays alimony in the following sums: to maintain one child - one quarter of the salary (income); to maintain two children - one third; in case of three or more children - half. When it is impossible to receive support from a parent, the Marital and Family Code obliges the closest relatives (brothers, sisters, grandfather, grandmother) to maintain the child (arts. 84, 86).

105. The family legislation and civil and criminal laws ensure the effective payment of a child's maintenance. According to article 75 of the Marital and Family Code, at the interested person's request the maintenance can be fixed at a certain amount, which should be paid monthly except if the parent has an irregular salary (income) or when, due to the insufficiency of the amount of the salary it is impossible or difficult to make the payment.

106. A parent who pays maintenance to his under-age children might be obliged also to pay additional expenses which result from special circumstances (child's serious illness, injury, etc.).

107. Under article 121 of the Penal Code the deliberate negligence of maintenance of a child is a crime.

108. Children's institutions are facing a lot of problems which considerably reduce the effectiveness of the child care and education they provide. The

houses cannot sufficiently compensate for the lack of a family environment and cannot maintain regular contacts with the parents (if children have any). It should be noted that for children placed in such institutions backwardness of personal development, lack of love towards adults, passivity and infidelity are rather typical. Serious deviations in the field of intellectual and psychological motivation, and inclinations towards inappropriate behaviour are noticeable among the children of school age. As a matter of fact, this ineffective form of child care is a result of former policy and obsolete legislation. The institutions in their present form cannot satisfy the conditions of the Convention in respect of child care. Alternatives need to be thoroughly studied and worked out and introduced in social policy and legislation.

F. Adoption (art. 21)

109. Adoption is permitted with a decision issued by a court. Pursuant to the provisions of the Marital and Family Code, the court must collect information about the child to be adopted and the adopters. It should then hear the conclusion of the prosecutor and should permit adoption only if it judges that such adoption is in the best interests of the child. Under article 102 of the Marital and Family Code only persons under 18 can be adopted, while adopters should be persons who are not incapacitated, should be adults, and should not have been deprived of paternal rights. The consent of the parents of the child is required for carrying out an adoption. It is inadmissible to adopt a child over 10 years old without his/her consent. The parents are allowed to grant permission for adoption to a person or persons or to agree on adoption and entrust the guardian and care office to make a choice regarding the child to be adopted. Parents have a right to withhold their consent if a decision concerning a child's adoption has not already been made.

110. There is, however, an exception to this rule: there is no need for the parents' consent to the adoption if they are recognized as incapable or are missing. It is admissible to adopt a child without the consent of a parent who is deprived of rights after one year after the deprivation rights. As an exception, it is also possible to carry out an adoption without the parents' consent if the parents have neglected their children (art. 105, Marital and Family Code).

111. International adoption is recognized by Georgian legislation as an alternative for children who cannot be adopted by Georgian citizens and as a better option than looking after the child at an institution. The adoption of Georgian children by foreign nationals is carried out by Georgian courts after receiving the permission of the Ministry of Justice. Candidates must submit documents certified by the social services at their places of residence showing that they conform to the standards for adopters in their countries.

112. Adopted children usually go to countries that have a relatively higher standard of living. In giving its consent the Ministry of Justice is guided by the adopters' native country and their financial and property status from the point of view of their ability to provide adequate care for the child.

113. The regulation of international adoption conforms to the Convention on the Rights of the Child. Currently, authorities are examining the European Convention on the Adoption of Children with a view to Georgia becoming a party. The Marital and Family Code contains certain provisions of an international character regarding applicable law to adoption.

114. In Georgia the principal directions of the National Programme for the Improvement of the Conditions of Children and Women have been worked out. The Programme aims at elaborating the package of laws protecting the rights of minors and adolescents, including the law on children and the law on adoption and guardianship of adolescents.

115. Society became rather indignant due to the fact that since 1992 the adoption of Georgian children by foreign citizens has greatly increased. In 1992-1995, according to official data, 519 children were adopted in the capital alone, of whom 116 were adopted by foreign citizens.

116. According to data provided by the Ministry of Education, in the same period 147 children were adopted by foreign citizens in the country. Besides the State institutions over 10 agencies of foreign countries with representatives in Georgia are involved in adoptions.

117. In Georgia the issue of elaborating an appropriate mechanism has been put on the agenda in order to prevent international adoptions from taking an incorrect and illegal form. In the meanwhile, a moratorium on international adoptions has been declared.

G. Illicit transfer and non-return (art. 11)

118. The Georgian Penal Code calls such actions as abduction, detention and hiding a child criminal. Article 133, added to the Penal Code of 1992, states that kidnapping a person for mercenary or other motives is punishable by imprisonment from 10 to 15 years, with or without the confiscation of property. The punishment becomes much more severe when the victim of a kidnapping is a child.

119. Under article 133 of the Penal Code the holding of a person as a hostage and his detention under the threat of death, mutilation or further detention in order to force the State, an international organization or a physical or legal person to execute or to refrain from some action as a condition for the hostage's release is punishable by 10 years' imprisonment. In certain cases, if a hostage is a child, such action is punishable by imprisonment from 5 to 15 years, with or without confiscation of property.

H. Abuse and neglect (art. 19)

120. The legal situation in respect of parents' liabilities for general violation of their obligations to look after their children was explained in connection with the information on articles 5, 9, 18 and 20. The interference of the State and society is expressed in restricting or revoking parental rights, the removal of the child from the parents' home and the provision of replacement care. The commissions on juveniles' affairs may also apply

certain measures of public pressure on parents, such as reprimands, fines, etc. Parents may also be subjected to criminal proceedings for severe violations of the child's rights.

121. Leaving a child without supervision or sufficient care by a parent or guardian and thus threatening the child's physical, psychological or moral development is a crime. Under article 125 of the Penal Code, to use guardianship, care or patronage for mercenary motives, harming the interests of the person under guardianship, or to abandon a child under guardianship without supervision and necessary material assistance is punishable by imprisonment for up to two years of reformatory labour.

122. Under article 236 of the Penal Code, forcing a child to commit a crime or to become involved in alcoholism, begging, prostitution or other actions against society is punishable by imprisonment for up to five years. Abuse of parental authority expressed in forcing a child under 16 to join another person in matrimony as well as the regular use of children for begging are also punishable.

123. The mistreatment and abandonment of children by parents have still not been the subject of thorough study in Georgia. Court statistics do not show the incidence of family violence against children, though some information is available in the problem children offices. Thus, there are no organizational forms of public influence over parents or of protecting children. It is worth noting that the provision of target-oriented education of parents and preventive consultations and other services to families is also lacking.

124. Regional commissions on juvenile affairs have been established to examine the psychological and emotional sides of children and take measures against those families which create an unsuitable educational and psychological environment for their children. They make proposals for imposing public, administrative and legal penalties on parents and notify prosecutors' offices of crimes committed by parents against their children. The members of these commissions monitor in particular high-risk families (where the parents are alcoholics, drug addicts, homeless) and adopt preventive measures in respect of the children in view of their vulnerable situation.

125. State care for children subjected to violence or abuse in their families, including the measures for their rehabilitation and social reintegration, is the responsibility of homes for temporary placement of adolescents and social boarding schools. The homes for temporary placement are established by local governing agencies and operate under the supervision of the Ministry of Internal Affairs. Their staff (medical personnel, teachers and psychologists) looks after homeless children left without the supervision of families.

I. Periodic review of placement (art. 25)

126. The child's right to exercise, from time to time, control over all circumstances regarding his or her placement is not protected by the Georgian legislation in force. There are no provisions for exercising independent monitoring by the State of the child or for deciding on the need to continue

the placement or medical treatment of the child. The only control envisaged in the law is for children who suffer from psychiatric ailments, alcoholism and drug addiction placed by the court for medical treatment. The Penal Code provisions require the court to make a pronouncement on halting, extending or modifying mandatory treatment six months after the placement (art. 63, Penal Code).

V. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6, para. 2); health and health services (art. 24)

127. The survival and development of children are guaranteed by the Georgian Constitution, the law and other legal acts. Families, mothers and children are under the protection of the State and society (art. 36 of the Constitution). Mothers enjoy the particular protection of the State which provides leave of absence from work prior to and after childbirth, free obstetrical care, labour under easier conditions and other social assistance measures. Children born out of marriage enjoy equal rights with children born in marriage.

128. According to the medical reform begun on 10 August 1994 in Georgia, the priority of mother and child health care is recognized by the State: the medical foundation attached to the Ministry of Health guarantees the complete financing of the costs of pregnancy and childbirth and the health care of the child for the first year.

129. In Georgia there is a pretty well-developed medical network, having sufficient working capacity especially in the sphere of mother and child care. Thirty-five maternity hospitals, 31 women's consultation offices, 45 children's polyclinics, 23 children's departments and 1,200 obstetrical centres serve women and children. Besides these, there are specialized children's dental polyclinics, children's infectious disease hospitals and the following specialized children's departments attached to the general hospitals: endocrinology, plastic surgery, surgery, cardiosurgery, neurosurgery, ophthalmology, oto-laryngology, etc. Moreover, in the country there are a number of functioning institutions of perinatal medicine, gynaecology, paediatrics, the scientific research institution of human reproduction and a children's rehabilitation centre.

130. The medical care also embraces three infant houses, which are designed to provide care and treatment for children under three years of age lacking parental care.

131. Six hundred thousand lari are annually allotted from the federal budget to provide dispensary care for children aged one to three and 4,554,000 lari for stationary treatment. In addition to this, 183,000 lari are allotted to provide dynamic medical supervision for children aged 1 to 14. The following sums are allotted to provide urgent medical aid for children of the same age: for dispensary service - 54,000 lari and for stationary service - 4,528,000.

132. The principal goals of child health care are to reduce child morbidity and the rate of infant mortality. In this respect, there are still some serious problems in Georgia. The table below shows data on child mortality for the years 1992-1995:

	1992	1993	1994	1995
Indicator (per 1 000)				
Infant mortality rate	18.6	17.9	15.9	12.9
Stillbirth rate	7.1	7.4	6.0	6.7
Neonatal mortality rate	8.5	8.1	8.3	9.9

133. The child mortality rate is unequal in the different regions of the country. The rate of child mortality is rather high in mountain areas and regions remote from regional centres. If in the capital child mortality is basically conditioned by early neonatal (up to seven days) and neonatal (up to one month) mortality, in mountain regions post-natal mortality (from one month to one year) is also pretty high.

134. Comparison with other European countries shows that in Georgia the greater part of child mortality is conditioned by diseases which can be actually prevented, e.g. respiratory, diarrhoeal and other infectious and parasitic diseases.

135. In Georgia the present structure of child mortality is the following: infant diseases are in first place (8.5), followed by unspecified diseases of the respiratory system (2.2), including pneumonia (1.9) and serious respiratory diseases (0.3), then infectious and parasitic diseases (0.9) including serious enteritis (0.7), sepsis (0.2), and lastly diseases of the neurological system.

136. Pneumopathy is the leading cause of neonatal mortality (3.5) including atelectasis (2.7) and asphyxia (0.5). Birth trauma is second (2.9), followed by congenital deformities and abnormalities (1.3).

137. During recent years in Georgia child mortality has been stable, varying between 1 and 1.5 per 1,000 children. Pathologies of the respiratory system (0.6), including pneumonia (0.5), are the leading cause. Serious enteritis is in second place, followed by accidents (0.1).

138. Analysis of the causes of child mortality allows target-oriented measures to be taken to reduce it. The "Safe Maternity and Child Life-Saving Programme" has been set up with the following main strategic directions:

(a) Family planning programme;

(b) Programme to encourage "safe sex" and to control sexually transmitted diseases;

(c) Micronutritional supplementary provision programme for the prenatal period;

(d) Prenatal and neonatal assistance programme;

(e) Breastfeeding and "Baby Friendly Hospital Initiative" promotion programme;

(f) Acute respiratory infection and diarrhoea disease control programme;

(g) Expanded Programme of Immunization.

139. There are two basic strategies of programme development. The first is to create legislation, which guarantees policy support of this programme. The second is to conduct study courses for medical personnel in order to stimulate their active collaboration in the practical realization of the programme. The first strategy is rather specific to countries of the former Soviet Union, and it is necessary in order to overcome the outdated mentality of the Administrative Body. The second strategy is common in all countries. Beginning on 2 February 1995, within the frameworks of the first strategy, Order #266 "On the Functioning of Women's Consultation Centres" and Order #21 "On Child Care at Maternity Hospitals" were approved. The president's order regarding the supply of iodine salt to the population has been received in 1996. Within the frameworks of the second strategy, the curriculum for physicians and for other medical personnel was set up in order to conduct the workshops; in all regions of Georgia the workshops were conducted in accordance with the disciplinary programmes. During the year 1995 over 400 specialists were trained at different levels, and between January and April 1996, over 500 specialists, paediatricians, gynaecologists, nurses and midwives, were trained.

140. To implement these programmes Georgia receives assistance from a number of humanitarian organizations (Médecins sans frontières, UNICEF) as well as from the World Bank.

141. Schoolchildren's health care is limited to preventive examinations, partial dental care and first aid. At children's polyclinics all children under school age are provided with a full medical examination and are sent to school with the proper documentation. While they are at school children are provided with medical and preventive care at children's polyclinics.

142. With children aged three to seven the most frequent diseases are respiratory infections, spinal disorders, neuroses, etc. The number of deaths among children suffering from high blood pressure, stomach and duodenal ulcers and neurosis has considerably increased. The unfavourable changes are mainly linked with growing stress resulting from the current situation in society and the family and with the unhealthy lifestyle, in particular with insufficient physical activity, overburdened school curriculum, etc. Unfortunately, during the period after the Chernobyl disaster the cases of cancer and leukaemia among children considerably increased.

143. It is worth noting that in Georgia the child immunization system has always functioned very well. Children were vaccinated against DPT, TB, polio, and rubella according to a fixed calendar. However, the system has been disrupted due to the current socio-economic crisis, as it became practically impossible to obtain the necessary quantities of vaccine. As a result, the cases of the above-mentioned infections have increased; in 1992-1994 in the Autonomous Republic of Adjaria and Tbilisi there was a rapid spread of diphtheria. In the beginning of 1994 mass immunization was carried out against diphtheria and polio, which resulted in a rapid decrease of those diseases.

144. In the country there was a system of school physicians, which unfortunately has not functioned in recent years. The schools in all large cities were served by physicians, paramedics and dentists. One school physician served between 500 and 1,500 schoolchildren, depending on the size of the school. The villages' schools were served by regional physicians and the small villages by a paramedic from a paramedic-obstetrical centre. In recent years the institution of physicians of this kind has been abolished and health care for schools has been tied to regional polyclinics, which has had a negative impact on school health care. School medical offices are not concerned with the problems of student health and hygiene as much as the impact of study and the school regime on children's health, psychological disorders, student nutritional norms, physical activity, the school's hygiene and ergonomic conditions.

145. The nutrition of children during the transition to market economy somehow has deteriorated, due basically to the reduced manufacture of food products and higher prices after the price liberalization. As a result the consumption of food dropped in terms of quantity and deteriorated in terms of quality. A particularly deplorable situation has been established with respect to breastfeeding, revealed by a rapid decrease in breastfeeding, which has led to an increase in children's ailments. In Georgia in 1994 a national breastfeeding programme was worked out, on the basis of which a broader State programme of infant natural nutrition, protection of nursing mothers and limited consumption of artificial food was adopted in 1995. The International Code of Marketing of Breastmilk Substitutes has also been adopted.

146. In Georgia there is a problem related to the pollution of food products with heavy metals and other admixtures. Food products accumulate harmful substances from soil and waters which results in a deterioration of the health of large groups of children and an increase in chronic diseases. Unfortunately, no serious measures are being taken in this respect.

147. Recently in Georgia endemic goitre became rather frequent and widespread, and became a big public problem. In 1995, the Micronutritional Supplementary Provision Programme started, aiming at providing the population with iodine salt and iodine preparations, first in the high-risk regions.

148. The State completely provides and finances proper supervision and medical aid for women during pregnancy and labour. Practically all women are able to receive highly qualified assistance at women's consultation centres and maternity hospitals. Despite this, the cases of giving birth at home have increased. And in spite of measures carried out since 1994, the maternal

mortality rate (46.8 per 100,000 live births) still remains rather high, caused mainly by post-natal haemorrhage and septic complications.

149. There is an undesirable situation in the field of family planning policy, representing abortion as its principal method. The number of juveniles giving birth has increased, which has had a negative effect on women's and children's health. A State family planning policy has been elaborated and started to function in 1996, which will help to introduce and disseminate new methods of contraception, to purchase contraceptives, and to extend sexual education among the population and juveniles.

B. Social security and child care services and facilities (arts. 26 and 18, para. 3)

150. In Georgia under the legislation in force direct assistance to families with children is designated for children under 16 and students under 18: 5 lari in the cities and 3 lari in the villages. Children of single mothers are also provided with assistance of 6 lari. It should be noted that such assistance will be prolonged until the end of 1996, and from 1997 there will be provided family aid, for the following families:

(a) Families consisting of single disabled persons;

(b) Families consisting of completely disabled members;

(c) Families consisting of unemployed members residing in cities where they are registered at the labour exchange.

151. Children with mental or physical disabilities are provided with aid in the form of a pension (85 lari). Today, out of 8,134 registered invalid children, only 196 children between 4 and 16 are in children's boarding houses.

152. Legislation assumes that a parent is obliged to provide the child with adequate living standards, to maintain the child both in the family and in case of the parents' divorce or separation (Family Code).

153. Statistical analysis of the family budget shows that in 1995 the sum spent on food products exceeded 70 per cent. A certain number of families, because of financial difficulties, have reduced the consumption of products or have begun to buy cheaper and inferior quality food.

154. Despite the fact that real income growth has exceeded the growth of inflation, the social condition of families is still unsatisfactory. The average salary is equal to 21 per cent of the minimum needed for survival.

155. International humanitarian organizations provide a greater part of the assistance for children and families with children, as outlined below:

(a) Action internationale contre la faim (AICF) provides additional nutrition at schools and kindergartens for 18,000 children;

(b) Care cooperative for assistance and relief everywhere operates a programme supplying 3,540 tons of basic commodities donated by USAID to 82,000 persons, including pregnant and nursing mothers, children between 6 and 59 months old and families without breadwinners, and distributes aid donated by the European Community Humanitarian Office (ECHO) to children between 6 and 59 months old and persons seeking refuge from earthquakes and war;

(c) CARITAS Georgia supplies extremely poor families with basic commodities and runs the Orphan Children's House at Kaspi housing 56 orphan children. CARITAS Germany operates food kitchens for pensioners, invalids, single persons, children and other poor people;

(d) ECHO supplies aid, through CARE, to 29,380 persons seeking refuge, including children and mothers, through another project to 40,000 persons members of large families; through AICF to 29,500 persons seeking refuge and 15,000 school-age children; through Women's Aid International to kindergartens (15,000 persons); and through Première urgence to 3,502 children (0-12 months old);

(e) Equilibre started to function in Georgia in July of 1995. It provides assistance for kindergarten pupils and supplies them with food, ovens and wood;

(f) Feed the children (FTC) supplies milk powder, biscuits, oil and rice donated by ECHO and WFP to children of refugees and pregnant and nursing women;

(g) Première urgence aims at distributing food and hygienic objects for consumption at orphanages and hospitals. The food ration is 973 calories per person per day. All in all 473,633 kg of food will be distributed;

(h) The Salvation Army distributes food donated by the United States Government to 3 million pensioners, invalids, families without breadwinners, large families and refugees;

(i) Women's Aid International (WAI) distributes food and non-food items to minors and adolescents living in difficult conditions. It also distributes food donated by bilateral donors, WFP and ECHO to children in kindergartens and schools and to teachers.

VI. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

156. In Georgia the supreme goal of education and training is to promote the political, economic and cultural development of the country. The educational system must satisfy the joint demands of individuals, society and the State.

A. Aims of education (art. 29)

157. All educational institutions in the territory of Georgia must uphold the State education standards. The educational system is based on the principle of continuous education; however, it covers completed phases called the stages of education. Each of those stages might include educational levels, i.e. stages and types of education.

158. The educational system covers the following stages, phases and types:

(a) Preschool education;

(b) Basic education

(i) Primary education stage;

(ii) Basic education stage;

(c) Secondary education

(i) General and general-disciplinary types of education;

(ii) Types of primary vocational education and vocational-technical education;

(d) Higher education

(i) Bachelor's degree;

(ii) Master's degree;

(e) Further higher education.

159. The educational system is financed chiefly by the State. Since 1991 an educational network has been developed.

160. The goal of preschool training is to create the necessary conditions for the child's sane development and to prepare him/her for a primary school education. The institutions of this stage are the kindergarten and the creche. Children between three and six are allowed to be admitted into preschool institutions.

161. The State also promotes the development of a network of alternative non-governmental preschools and commercial, public departmental, family, corporation, etc. establishments. Unfortunately, this has revealed an undesirable tendency. The number of preschool establishments has considerably decreased. From 1992 to 1995, 599 preschool institutions were closed. This was due to the fact that there is no longer State funding for preschool institutions and the fees levied on parents are not sufficient to organize feeding in the preschool institutions even once a day. At present in the preschool institutions there are poor sanitary-hygienic conditions, due to which the number of diseases among pupils has considerably increased.

162. Due to the above-mentioned factor the preschool education system currently comprises about 30 per cent of under-school-age children. Therefore, the system cannot sufficiently carry out its function - to prepare under-school-age children for school. In addition to this is the rapid growth of unemployment among teachers as well as among parents.

Year	1990	1991	1992	1993	1994	1995
Number of preschool institutions	2 479	2 398	1 921	1 718	1 621	1 322
Pupils	199 982	18 199	135 698	114 259	80 211	81 938
Teachers	22 538	21 874	17 657			10 491

163. Basic education is the fundamental stage of school education. Basic education starts from primary school and comprises classes 1-6. School education starts at the age of 7 and ends at the age of 16-17. Primary school prepares children in those disciplines which from the next stage are to be studied more thoroughly.

164. Together with the primary school, the basic school is an independently existing establishment. After graduation a pupil continues his/her study at institutions of further education. Basic school covers classes 8-9 and provides a pupil with a general education in the subjects that are provided by the State educational standard. After graduating from the basic school, a person may continue study in educational institutions of the following stage.

165. Secondary education is the next stage after basic education. Its goal is to prepare pupils for the stage of higher education, or to prepare them for working activities and for practising a profession. At this stage education is carried out in the educational institutes of the following types: secondary schools, lyceums, vocational schools, colleges.

166. The secondary school is a two-stage educational institution and each of the stages comprises three years. Pupils who graduate from the first stage can continue to the second stage. There are both day and night (for working adolescents) classes available in the secondary school.

167. The lyceum is a specially oriented educational institution in which pupils, having completed classes 10-12 of the second stage, may receive specially oriented education. A certificate delivered by a lyceum allows a pupil to continue study in an institution of higher education.

168. Vocational schools are educational institutions where adolescents, having finished the second stage of the school education, will acquire a profession during one, two or three years. In addition, vocational schools undertake raising pupils' qualifications, requalification and necessary professional preparation for alternative (non-military) working activities.

169. Having provided pupils with different primary professional qualifications, special secondary schools (colleges) aim at deepening their special preparation and providing them with general education. At college the complete education cycle comprises five years. If the fourth and fifth terms of college correspond with the programme of the first and second term curriculum of particular disciplines of higher educational institutions, then a student, having graduated from a college and having taken mandatory examinations, may enrol in the third term of a higher education institution if

there is a place. In other circumstances, a graduate of a college is allowed to continue his/her study at higher educational institutions in accordance with the usual rules.

170. The goal of the higher education stage is to prepare highly qualified professionals, pedagogical personnel for different types of educational institutions and young personnel for scientific work. Higher education works basically at two stages: preparation for Bachelor's degrees (usually comprising four years) and for Master's degrees (usually comprising four years).

171. At the higher education stage specialists are prepared in the following types of educational institutions: university; higher pedagogical institute; higher institution of arts (academy, institute, conservatoire); higher disciplinary educational institutions.

172. The law of the country with regard to education provides for compulsory education until class 8. According to this law the right to a general education is enjoyed by all children, regardless of their nationality and religion. Matters concerning education and youth are regulated and coordinated by the Ministry of Education and the Department of Youth Affairs, which are currently formulating the policy of the country with regard to youth.

B. Leisure, recreation and cultural activities (art. 31)

173. Besides the above-mentioned institutions in the system of the Ministry of Culture there are 203 music schools, 38 drawing schools, 14 art schools and 3 choreographic studios. These schools represent the primary, basic stage of the system of art education, where pupils acquire the basics of art education.

174. At present the system of art education in Georgia consists of the following three stages: primary, secondary and higher. One can say that the achievements in Georgian art are the results of this system. Therefore, despite the difficult economic conditions in the country, it is necessary to find some means to protect the above-mentioned system and avoid its collapse. The Ministry of Finance has issued directives concerning the discontinuation of financial support for art schools and putting them on a completely self-supporting basis. This makes it impossible for people, in the present social conditions, to acquire knowledge and does not allow gifted adolescents to study at art schools.

175. It is noteworthy that in Georgia, due to the current educational reform, it has been stated that the nine classes of schools providing general education, constituting the basic steps of the educational system, should be financed by the State. In the system of art education the primary schools also have the function of providing basic education. Therefore, they should also be financed by the State for the purpose of retaining and developing the best traditions of Georgian art. In addition, it should also be mentioned that the material-technical base of the art schools is in need of assistance. Due to the lack of means it is impossible to supply schools with musical instruments, drawing stock, etc. It should also be noted that during the winter none of the buildings are heated, which causes studies to be suspended.

176. There are 317 children's libraries in Georgia, including 2 national children's libraries, 68 regional children's libraries, 87 municipal children's libraries and 160 village children libraries. For children's libraries it is necessary to improve the material-technical base, make current repairs, arrange the interiors, furnish them and provide them with technical facilities (computers, videos, diskettes), acquire children's literature and periodicals and order the proper literature from abroad. Children's libraries serve education and support families and schools to mould individuals into citizens.

177. It should be noted that there are unfavourable conditions regarding children's theatres in Georgia. Many of them do not have even elementary conditions for normal functioning and existence. The Georgian Central State Children's Theatre and the Tbilisi State Experimental Theatre attached to the former do not have their own building.

VII. SPECIAL PROTECTION MEASURES

A. Children in especially difficult circumstances

178. Institutional care is an alternative form of looking after those Georgian children who, temporarily or permanently, lack a family environment. Depending on the age or type of need, there are various types of children's institutions. Even during the Soviet era, the particular categories of children in situations of emergency were defined, the State assumed responsibility for them.

179. Children's homes and boarding schools function for orphans and children lacking parental care. At these institutions conditions exist to ensure access by children to education, training and preparation for an independent life.

180. For children with mental and physical ailments special schools have been established which are general education, training and medical-rehabilitation institutions designated to teach and train such children through special programmes, curricula and methods. Vocational education is aimed at enabling them to practise one of the available professions. The procedure for training and treatment depends on the physical and mental capacities of the children and is based upon the strictly defined recommendation of the medical authorities.

181. In the country now there are 72 institutions where 7,500-8,000 children reside. The institutions belong to four ministries and are under the central Government. Sixty-three children's institutions belong to the Ministry of Education, three to the Ministry of Health Care, two to the Ministry of Social Security, Labour and Employment, and four to the Ministry of Internal Affairs.

182. Children's homes (in Tbilisi and Kutaisi) have been established for children aged zero to three. These homes are designated for partial or complete orphans and children with mental or physical ailments (of any type). These institutions are supervised by the Georgian Ministry of Health Care. The average number of children at these institutions is 110. The greater part

of the personnel of these homes have a specialized medical education; mostly they are paediatricians. The non-medical staff are psychologists and education specialists.

183. Specialized institutions have been established for children with serious mental and psychological ailments. There are two institutions of this kind: the psychoneurological boarding house at Senaki (admissible age between 3 and 18) and the psychoneurological boarding house at Kaspi (admissible age between 4 and 17). The number of children at these boarding houses averages 210. They are supervised by the Ministry of Social Security, Labour and Employment.

184. Most of the children's institutions are under the authority of the Ministry of Education. The Ministry supervises 63 institutions. At these institutions children of the following categories are admitted: children with sight, hearing or other physical and/or mental ailment (if it is an accessible form); partial or complete orphans or abandoned children or healthy children left without a legal guardian; children from economically poor and/or large families (five or more children); children from families in remote/sparsely populated areas where there are no day schools; problem children; talented children. Children aged 3 to 18 are admissible. At these institutions at present the average number of children is 7,600.

185. Four institutions are subordinated to the Ministry of Internal Affairs into which the following categories of children are admitted: suspects under 14 years of age or children under investigation; children being tried or who have committed a crime, the parents/guardians/families of whom are unknown; offenders under 14 years of age, regardless of whether their parents/guardians/families are known.

186. It is noteworthy that there is a central body gathering reliable information about children who are under the supervision of these ministries. However, it is almost impossible to obtain information directly from the institutions, as the lesser-known institutions are almost always left without attention. In addition, definition of such institutions is usually rather confusing. Moreover, one cannot obtain information in one institution regarding another one, even in the same city.

187. As already mentioned, these children's institutions are under the central authority and lack basic resources to cover current expenses. After the civil wars and economic collapse children living in these institutions were almost totally dependent on international humanitarian aid.

188. The practice and attitude towards looking after children in situations of extreme emergency correspond more to Soviet policy than to the Convention on the Rights of the Child. It is true that flagrant violations of the Convention are not notable, but the preconditions certainly exist. It should be noted that these preconditions result from the following factors: the formal procedure for children's admission, care and release, which promote the deepening of distrust; the curricula, which are more punishable and disciplinary than educative; the systematic lack of clarity in legislative and administrative procedures; the decrease of clarity in the State supervision; the failure of families to assume their obligations; the conditions not only

in the institutions but also in the surrounding society which hamper children's healthy development. Such children, while living in the institutions according to the Convention and Georgian traditions deserve surroundings that promote their normal development; they deserve public attitudes, State policies and legislation that allow them to have the same quality of life as the children living in their families.

189. In all Georgian institutions the essence of the curriculum, the attitude of those responsible and the existing attitude towards all aspects of child care must be changed in order to protect children's development. Fundamental alterations have to be made in the concept of child care. Care givers should respond better to the children's emotional, mental and physical needs and promote the development of their potential, giving them the opportunity for an easy relationship with society; they should also try to arrange the positive reintegration of children into society.

190. In Georgia, a law "on the social security of invalids" has been received by the Parliament. Articles 17 and 18 of the law guarantee an invalid's educational and vocational training. This will give children the opportunity for an overall and harmonious development and create the conditions for social activity, for stimulating interest in work and for pursuing science, technology, art and sport.

191. During the last three to four years the number of children to be placed in the institutions had considerably decreased and then, as a result of the humanitarian aid provided for the institutions, increased. During the last 12 months, the average number of births has remained more or less stable; however, an increase in the number of children to be placed in the institutions has been registered by most of them. This is a result of economic reasons (large families or families living under the poverty level). In addition to this, other reasons might be frequent divorces, unwanted pregnancies, etc.

192. Children's institutions are facing a lot of problems, which considerably reduce the effectiveness of child care and education. They cannot compensate for the lack of a family environment and cannot maintain regular contacts with the parents (if the children have them). It should be noted that for children placed in such homes the backwardness of their personal development, decreased sociability, lack of love towards adults, passivity and infidelity are rather typical. Serious deviations in their intellectual and psychological motivation, and inclinations towards inappropriate behaviour are noticeable among children of school age.

193. There are serious problems in the field of financing and maintenance of children's specialized institutions. Particularly serious problems are with regard to staff: inadequate preparation of teachers and other personnel and poor personal motivation, plus the fact that most of them have very little experience or are over retirement age. There are also organizational and legislative problems, which are equally important. The institutions of different kinds follow different legal rules and are responsible to different governmental bodies. It is worth noting that the institutions in their present form cannot satisfy the conditions of the Convention with respect to child care.

194. The difficult political situation and the socio-economic and psychological atmosphere, growing unemployment and the forced displacement of some part of the population have resulted in the collapse of historically established social relationships. Children have turned out to be the main victims of the situation. Many children became street children, spending most of their time on the streets and earning money mainly through begging and stealing.

195. The problems of street children are both new and harmful, and undeniably need assistance. However, the country does not have the necessary money to look after all the children in such circumstances, even while their numbers grow. It is practically impossible to establish the exact number in the whole country; therefore, neither social nor humanitarian programmes extend to them.

196. Due to the difficulties described the exact number of street children is not known. Thorough studies were carried out in Tbilisi in order to register their number. As a result of these investigations the presumed number was put at 1,100-1,200 children. Out of them approximately 70 per cent are inhabitants of Tbilisi, 18 per cent came from different regions and 12 per cent are children of refugees. The average age is 13. Eighty-seven per cent of the children completely or partially give their income to their families. Out of these children 54 per cent are of school age but cannot read or write; 22 per cent do not study, but rather work; 42 per cent have health difficulties, 24 per cent smoke, 2 per cent are prone to alcoholism, 2 per cent have inclinations towards narcotics. In general, 234 children are beggars. The average age is 10; 140 are boys and 94 are girls.

B. Children in conflict with the law

197. The provisions regarding the investigative and court procedures are contained in the Code of Criminal Procedure of Georgia. Juvenile justice is administered in general court but follows the Extraordinary Rules contained in the Code of Criminal Procedure and the Penal Code. Investigations are carried out by special investigators trained in this field. Requirements of the Convention concerning the child's rights and the generally recognized principles of criminal law are incorporated in Georgian legislation. Rights provided by the law are protected for under-age suspects, defendants and convicts.

198. Article 3 of the Georgian Penal Code states that a person may be legally answerable and sentenced only if he/she is guilty of a crime, defined as such by the criminal law. No one may be convicted of an action or sentenced without a court decision and in accordance with the law. Under the Penal Code no one may be convicted of an action which had not been proclaimed a crime by the law at the time it was committed. The criminal law cannot have retroactive effect and cannot be applied by analogy. A law which nullifies punishment for an action or mitigates a sentence is an exception. If the law changes before a crime was committed or before a court sentence has entered into force, the mitigating law will apply to the defendant.

199. The Georgian Constitution and criminal law are based on the presumption of innocence. Under article 40 of the Georgian Constitution a person is presumed innocent until proven guilty by a court verdict that has entered into force. Nobody is obliged to prove his/her innocence. It is the prosecutor who has to prove the guilt of the defendant.

200. Article 202 of the Penal Code recognizes the right of the accused to learn immediately the particulars of his/her indictment. The accused has the right to extract necessary information from his case materials while familiarizing himself with them. To acquaint the accused with the indictment is the obligation of the prosecutor. In the case of preliminary detention of an adolescent, the parents or guardians of the child, as well as the principal of his school, must be advised forthwith.

201. The right to legal counsel is guaranteed by the Georgian Constitution and legislation. From the very moment of detention of an adolescent an attorney must be involved in the case. Under article 40 of the Code of Criminal Procedure participation of an attorney in the cases of adolescents is mandatory. In addition, the legislation provides for other protective mechanisms relating to cases when adolescents are involved. Under article 93 of the Code of Criminal Procedure, besides the measures of imprisonment, adolescents may be turned over to the parents or guardians for close supervision. Adolescents who are in special correctional schools are placed under the supervision of their schools' administration. The above-mentioned persons ensure the proper behaviour of the adolescents and their appearance before the court.

202. Georgian legislation does not provide for shorter terms for concluding a preliminary investigation against an adolescent. Under article 134 of the Code of Criminal Procedure the term of a preliminary investigation is two months, which may be extended for up to nine months in exceptional cases by decision of the Chief Prosecutor or deputy prosecutors. In 1995 there were 2,017 registered under-age offenders:

Adolescents with suspended sentence	91
Adolescents on probation	112
Amnestied adolescents	69
Adolescents returned from correctional colonies	20
Detained adolescents	92
Adolescents returned from special reformatory institutions	8
Drug users	24
Offenders between 11 and 14	46
Alcoholics	47
Prostitutes	36
Vagabonds	136
Others	1,336

203. According to statistical data, during investigation of adolescents' cases the rules for preliminary investigations are often violated. That is the result of incompetence and mistakes by some prosecutors. However it is typical only for such cases.

204. Article 148 of the Code of Criminal Procedure states that while interrogating an under-age person, the defendant's legal representative or teacher must be present. That person may question the defendant with the consent of the prosecutor.

205. Under article 59 of the Code of Criminal Procedure, during the preliminary investigation and trial of adolescents the following circumstances must be clarified: the living and educational conditions of the adolescent; the conditions of and reasons for the crime; whether the crime was committed under the influence of adults.

206. For the protection of the interests of the juvenile, the law also permits the court to temporarily remove the defendant from the chamber whenever it is necessary to clarify facts that may have an adverse impact on the defendant. Prior to ruling on this matter, the court should hear the defence, the parents or guardian and the prosecutor.

207. No one can be sentenced only on the grounds of his/her confession. Additional evidence is required to confirm the confession. Under article 195 of the Penal Code forcing a person to give evidence is a crime punishable by imprisonment from 3 to 10 years. The accused has wide rights. The burden of proof is placed pursuant to the presumption of innocence of the accused: the defendant is not obliged to prove that he is innocent and no adverse conclusions may be made if he should refuse to provide explanations or has not proved his objections. The rights of the defendant are exercised by observing the principle of the equality of the parties in a trial.

208. There is a two-tier system for examining cases in Georgia. Each sentence passed by a court of first instance may be appealed before a court of second instance which examines the legality of sentences that have not yet come into force. In some cases the convict may request a review of the case for overturning a sentence that has come into force. This is carried out by means of supervisory reviews of cases. In the event that the Supreme Court should decide that a request for review is motivated, it overturns the sentence and returns the case for retrial.

209. Article 135 of the Code of Criminal Procedure requires the court and the investigating magistrate to provide an interpreter for the accused or defendant if he/she does not speak or understand the language in which the trial or investigation is carried out. When the defendant is deaf and dumb, a person who understands his/her speaking signs must be invited. That person, or the interpreter, will be answerable under article 197 of the Penal Code if their translation is deliberately incorrect.

210. In Georgia the institute of alternative to court action and penalties is provided for children who have committed crimes and offences. If the court decides that a person under 18 committing a crime might be reformed without

punishment, compulsory correctional measures can be applied to him/her. Under article 64 of the Penal Code the court can apply to an adolescent the following mandatory correctional measures:

(a) Apology (public or of another form, depending on the decision of the court) to the affected persons;

(b) Reprimand;

(c) Severe reprimand and warning;

(d) Making those offenders over 15 years and having their own income compensate for any damage caused by them;

(e) Turning over the child to the parents or guardians for close supervision;

(f) Placing an adolescent in a labour collective, public organization, or with a public educationist, with their consent;

(g) Placing an adolescent in a special reformatory-correctional institution.

These alternative sanctions are difficult to carry out in the present transitional period because of the existing socio-economic situation. Financial difficulties and technical problems (obsolete buildings, lack of communal facilities, etc.) make it impossible for special educational institutional institutions to carry out their functions.

211. Article 12 of the Penal Code states that persons who were over 16 before committing a crime are legally answerable. Persons committing crimes between the ages or 14 and 16 are legally answerable only in cases when those crimes are grave: deliberate murder, bodily injury, rape, robbery, larceny, etc.

212. Under article 13 of the Penal Code, while committing a crime a person who could not govern his/her actions because of chronic mental illness, temporary mental disorder, weak-mindedness or other sicknesses is legally answerable. The court may apply compulsory medical measures to those persons.

1. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

213. Under article 18 of the Georgian Constitution freedom of the person is inviolable. Detention or any other form of restrictions of personal freedom is prohibited without a special decision of the court. Detention of a person is possible only by a specially authorized person and only in cases provided by the law. An arrested or detained person must appear in court within 48 hours. If during the following 24 hours the court does not take a decision about the restriction of that person's liberty, he/she must be released immediately. At the moment of apprehension the detained person must receive an explanation about the reasons for the detention and his/her rights. He/she has the right to demand the help of an attorney and this demand must

be satisfied. The detention term of a suspected person cannot be more than 72 hours; the preliminary imprisonment of sentenced persons cannct be for more than 9 months.

214. Under article 194 of the Penal Code detention carried out by an official or investigating magistrate without a court decision is punishable by imprisonment for up to three years. Imprisonment is applied to adolescents only as an exceptional measure for particularly severe crimes. The maximum imprisonment term for under-age persons is 10 years.

215. Article 22 of the Penal Code states that punishment is not only a penal measure for a committed crime, but aims at reforming and re-educating a sentenced person. The goal of punishment is also to avoid the commission of new crimes by sentenced as well as by other persons. Punishment cannot have as its goal the causing of physical suffering or degradation of human dignity. Under the Penal Code adolescents serve prison sentences in correctional schools until they come of age, i.e. separately from adults and under a regime that is substantially different from the one in ordinary jail. Correctional homes are the institutions where adolescents serve their imprisonment sentences. There are two types of correctional colonies: (a) correctional colonies of intensified supervision where adolescents committing particularly severe crimes serve sentences; (b) correctional colonies of ordinary supervision. There are also correctional colonies for under-age girls. Those colonies have penal, educational and correctional functions. Social conditions and breaches in penitentiaries result in serious conflicts between inmates and staff.

216. The liberty of adolescents may also be restricted as a result of the adoption of mandatory medical measures. Under article 58 of the Penal Code the court may apply such measures to persons who have committed illegal actions who are not answerable for their actions, and also to those persons who became mentally ill before sentencing or during their sentence. Such measures are: placement in a mental hospital under ordinary supervision; placement in a mental hospital under intensified supervision; placement in a mental hospital under severe supervision. Mandatory medical measures may also be applied to under-age drug addicts or alcoholic defendants.

217. A child deprived of his/her liberty has the rights that are provided by Georgian legislation for all sentenced persons, in particular: the right to personal meetings with a lawyer; the right to be visited; the right to appeal against the decision taken by the court of first instance to the court of the highest instance.

2. The sentencing of juveniles. The prohibition of capital punishment (art. 37 (a))

218. Article 17 of the Georgian Constitution prohibits torture and cruel, inhuman or degrading treatment. Under article 24 of the Penal Code the death penalty, as an exceptional measure of punishment, is allowed till its complete abolition. A person who at the time of committing the crime was under 18, and women who were pregnant while committing the crime or at the time of sentencing, cannot be sentenced to death.

C. Children in situations of exploitation

1. Economic exploitation, including child labour (art. 32)

219. Under current legislation all Georgian citizens have the right to work, or the right to dispose of their working abilities, and to carry out any action that is not prohibited by the Georgian legislation. Legal guarantees of the right to work are established by the respective standards of the labour legislation. The minimum age for signing a labour contract is 16 years. In some cases a higher minimum age is adopted. To protect the health of persons below the age of 18, it is prohibited to hire them for hard, unhealthy, underground working. Signing of a labour contract by 15-year-old children is also possible, but in each individual case the labour inspectorate's permission is required; 16-year-old children may be hired only for easy jobs that are not dangerous to their health and physical and mental development. It is also prohibited to hire a 14-year-old pupil of a secondary or vocational training school without the consent of one of his/her parents or guardians. Hiring of those adolescents is possible only for work that is easy and does not expose them to danger and does not interrupt their studies. Dismissal of a person under 18 is restricted for a factory administration. Parents, adopters and guardians of an under-age worker, as well as those State bodies and officials who supervise control and protection of the labour legislation, have the right to demand annulment of an adolescent's labour contract if this work exposes him to danger and breaches his/her legal interests.

220. The labour legislation provides special protection to adolescents in the labour process. There are shorter working hours without reduced salary for adolescent workers. Reduced working hours are regulated: 24 hours per week for workers and employees between 15 and 16, 36 hours per week for persons between 16 and 18 years. There are special norms adopted for duration of leave for workers and employees below the age of 18 years. In granting the first leave it is not important how long they have worked in the enterprise: unlike adult workers and employees, an adolescent is entitled to receive leave in an amount of one month. An adolescent may use his/her leave at any time of the year and there are privileges for those adolescent workers who are students at the same time.

221. The Labour Code provides for criminal responsibility of those officials who illegally dismiss or transfer an adolescent to another job.

222. The right to work, and requirements and features concerning adolescent workers and employees provided by the Constitution and respective legislation, are difficult to enforce in Georgia. Socio-political cataclysms destroyed the mechanisms and guarantees for the realization of citizens' rights granted by the law in the above-mentioned field. Unemployment has increased. The social situation of some families has forced adolescents to begin working and to involve themselves in the private sector. This fact has resulted in the destruction of qualificational requirements. The State cannot struggle against those breaches through administrative measures because of the economic situation. This factor exposes to danger the health and mental development of adolescents.

2. Drug abuse (art. 33)

223. Under article 252 of the Penal Code the manufacture, storage, transportation, distribution or sale of narcotic drugs or other virulent toxic substances is a crime punishable by imprisonment for up to 10 years, with or without confiscation of property. Instigation of an adolescent is also a crime.

224. Thirty-four adolescents were made answerable for crimes relating to drug abuse in 1995. During the first six months of 1996 the number of such adolescents was six.

225. Drug abuse has become a national danger for Georgia. The situation has worsened in recent years. Because of its geographic location Georgia turned out to be a transit road for the "white death". The fact that Georgian borders are not properly protected is a promoting factor for the deterioration of the situation. The struggle against the problem is difficult because certain parts of the Georgian territory are not under Georgian jurisdiction. In addition, there is no proper material and/or technical basis for struggle against drug abuse. The State programme against drug abuse is elaborated by State departments.

3. Sexual exploitation and sexual abuse (art. 34)

226. The sexual inviolability of children is specially protected by the respective standards of the Penal Code. Under article 117 of the Penal Code raping of an adolescent is punishable by imprisonment from 8 to 15 years, or by the death penalty. To force an under-age person to have sexual contact is also a crime. Under article 120 of the Penal Code perversion of a person under 16 is punishable by imprisonment up to two years. To involve adolescents in sexual intercourse, or to create preconditions for such an action, is also punishable by the law.

227. Article 2327 of the Penal Code provides for criminal responsibility for the manufacture and distribution of pornographic publications, pornographic images and other pornographic things. It is contained in the draft of the new Penal Code which has been transferred to the Parliament for consideration.

4. Other forms of exploitation (art. 36)

228. Constitutional and public-protection guarantees for children restrict other forms of exploitation.

5. Sale, trafficking and abduction (art. 35)

229. Under article 133 of the Penal code it is a crime to abduct or otherwise restrict the liberty of a person and is punishable by imprisonment from 10 to 15 years, with or without confiscation of property. In 1992 an amendment was made to the currant Penal Code under which to keep a child as a hostage under the threat of death or harm unless certain demands are met is a crime punishable by imprisonment from 5 to 15 years, with or without confiscation of property. Abduction of under-age persons for extortion of money were registered in 1995.

D. Children belonging to a minority (art. 30)

230. Under article 30 of the Constitution citizens of Georgia are equal in social, economic, cultural and political life, regardless of their language, national origin or religion. According to commonly recognized principles and standards of international law, everyone who lives in Georgia, regardless of his/her ethnic affiliation, is entitled to develop his/her own culture pursuant to his/her ethnic origin, to use his/her mother tongue in his/her private life and in public. Under the principles of international law ethnic minorities' rights should not contradict State sovereignty, State order, the integrity or political independence of Georgia.

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